

# **SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL**

**DECEMBER 5, 2011**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**7:00 P.M.**

The meeting began at 7:03 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mrs. Charest, Mr. McGee, Mr. Zwolenski and Mr. Yazbak. Also in attendance were Town Administrator Hamilton and Town Solicitor Nadeau.

## **EXECUTIVE SESSION**

**MOTION** by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to enter into executive session at 7:05 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation or work sessions pertaining to collective bargaining or litigation for: 1.) Review and strategy of litigation for a.) Narragansett Improvement Company, et als v. Jill Gemma et als, C.A. PC08-7468; b.) Narragansett Improvement Company, et als v. Vincent Marcantonio, et als, C.A. No. PC08-6504; and c.) Town of North Smithfield v. Narragansett Improvement Company, et als, PC08-3674; 2.) Intermunicipal Wastewater Agreement with City of Woonsocket and 3.) Claim from Jeannine Orlando.

**MOTION** by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to come out of executive session at 8:15 P.M. and to seal the minutes. No motions were made and no votes were taken.

## **PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT TO SECTION 6.12 – WETLAND SETBACK FOR ONSITE WASTE WATER TREATMENT SYSTEMS, OWTS, BUILDINGS AND IMPERVIOUS SURFACES**

**As explained by Caroly Shumway, a member of the Ordinance Development Committee, all existing structures are grandfathered as well as developers who are vested in a master, preliminary or final plan. Exemptions can be written in for any concern about small lots. Septic setbacks would be increased from 100 feet to 150 feet and structural setbacks would be increased from 50 feet to 100 feet.**

**Increasing the**

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**distance for setbacks would help to reduce fecal contamination of local waterways.**

**The ordinance has been before the Planning Board and found to be consistent with the Comprehensive Plan.**

**Town Planner Robert Ericson stated that a major problem for the town is the cleaning of catch basins. There is no manpower or capital equipment to clean them even once a year. He added the town is in serious trouble with MS4 compliance. If no progress is made, the town can be fined and the permit could be taken away.**

**To Mr. Yazbak, going above and beyond what DEM or any other state agency requires is an additional layer of red tape. He saw enforcement as an issue although Mr. Ericson responded that when a project is planned, a wetlands biologist and a surveyor are hired to make certain determinations of boundaries and delineations. There is no enforcement required on the part of the town.**

**Mr. Yazbak also felt there appeared to be differences of opinions among the Planning Board members regarding setback distances and he would like to see expanded documentation from them.**

**In a letter to Mr. Yazbak, Executive Director of the Rhode Island Builders Association John Marcantonio, noted his association's concern is that "the ordinance has the strong potential to severely inhibit buildable and developable property, destroy land owner value, create excessive expense for local residents and create legal challenges."**

**In speaking to the Council, Mr. Marcantonio stated that the National Association of Home Builders is aware that in many states across the country 100-foot buffers exist but in those states that buffer is usually an option that is used to protect a certain specific area of the town or a certain specific waterbody and is not usually something that is just a blanket across the entire community.**

**Mr. Gary Ezovski of 88 North Main Street agreed with Mr. Yazbak that**

**the town does not need more regulation. As chairman of the Regulation Subcommittee of the Small Business Association's economic summit, he has spoken at many venues about the issues that Rhode Island has created to impede its own progress. The State does a fine job of regulating locations of onsite wastewater treatment.**

**Mr. Ericson suggested that a workshop be scheduled with Mr. Marcantonio, Dr. Shumway and others to try to work out some of the differences.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to continue this public hearing to January 17, 2012.**

**PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT NEW SECTION 12 – MIXED USE DISTRICT**

**Mr. Ericson explained the mixed use ordinance is an attempt to develop design standards that will direct the particular MU1 and MU2 zone/ Branch Village in a particular direction for investment.**

**Mr. John Flaherty, Chairman of the Redevelopment Agency, stated that the Comprehensive Plan recommends that Branch Village and Slatersville be considered future growth centers. This ordinance will provide landowners with greater flexibility to develop land in Branch Village that they couldn't currently do and also allows the landowner to mix uses. Mr. Flaherty added that MU1 is a more traditional village**

**style of development and MU2 is confined mainly to the area currently known as the Branch River Industrial Park.**

**MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to continue this public hearing to January 17, 2012.**

**PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT SECTION 18 – STORMWATER POLLUTION PREVENTION PLAN**

**Per Mr. Ericson, under MS4 permit requirements, the Stormwater Pollution Prevention Plan (SWPPP) is absolutely required.**

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**Dr. Caroly Shumway commented that stormwater is the second greatest threat to the Blackstone River and if changes are not made to the ordinance, it will be costly to the town. She stated the most effective way to address stormwater pollution is to do so before pavement is created, when subdivisions and commercial areas are being designed.**

**On behalf of the North Smithfield Neighborhood Coalition, Ms. Mali Jones supported the amendments to this ordinance and gave several reasons for doing so. She urged the Council to support the revisions also.**

**Mr. Nadeau commented that the ordinance, in Section 18.7, refers to**

collection of fees and the filing fees should be attached to the ordinance as an Exhibit A. Also, the same section states that the Building Inspector or his designee may waive the filing fee for an applicant. Mr. Nadeau questioned who should have the authority to waive them.

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to close this public hearing.**

**MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to have the first reading on December 19, 2011.**

#### **EXTENSION OF TIME FOR PAYMENT OF TAXES FOR SUBWAY NORTH SMITHFIELD**

**MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to move this item up on the agenda.**

Ms. Elizabeth Featherston, owner of the establishment, requested an extension of thirty days for payment of taxes without having to close the business. The building had received extensive damage from Hurricane Irene. Ms. Featherston has been assured by her insurance company that she will shortly receive reimbursement of the funds that were expended.

**MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted**

unanimously on an aye vote to grant an extension of the due date for payment of taxes to January 6, 2012 and that the license may be issued.

#### **INVOICES FOR INTERLOCAL RISK MANAGEMENT TRUST**

**MOTION** by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to approve payment of \$12,500 to the Interlocal Risk Management Trust for the deductibles as listed in the Finance Director's memo of November 28, 2011.

#### **2:00 A.M. CLOSING FOR WIDE WORLD OF INDOOR SPORTS**

Mr. Stephen Sangermano requested extending their beer and wine license to 2:00 A.M. to accommodate those players who finish playing at 1:00 A.M. This would be for Fridays and Saturdays and the nights before legal state holidays.

Mr. Yazbak was not in favor of granting extensions to 2:00 A.M.

Mr. McGee feared that if it was granted for one, many other establishments would come forward looking for the same.

**MOTION** by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on an aye vote to deny the request.

#### **MUNICIPAL ANNEX/POLICE STATION FIRE CODE VIOLATIONS**

Ms. Hamilton has not yet received the information from the consultant

on the cost for a brick and mortar solution but should be receiving that soon. The only other alternative is to have an officer on hand. Ms. Hamilton is working with Chief Reynolds to determine how many lockups there actually are.

**MOTION by Mrs. Charest, seconded by Mr. Zwolenski and Ms. Alves, and voted unanimously on an aye vote to table this matter to December 19, 2011.**

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#### **NORTH MAIN STREET/VICTORY HIGHWAY INTERSECTION**

Mr. Yazbak stated this was listed incorrectly on the agenda. He asked if Ms. Hamilton would provide any additional recommendations to the Public Safety Commission report for the next meeting.

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to place this on the December 19, 2011 agenda.**

#### **SCHEDULING PUBLIC HEARING FOR DOWLING DONUTS, INC. D/B/A DUNKIN' DONUTS**

**MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to schedule a public hearing on the request of Dowling Donuts, Inc. d/b/a Dunkin' Donuts for January 17,**



**2012.**

**MU1 AND MU2 ZONING DISTRICT MAP**

**MOTION by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on an aye vote to send this to the Planning Board for their review and recommendations.**

**PARE CORPORATION CONTRACT AMENDMENTS**

**MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted to accept Contract Amendments Nos. 3, 4 and 5 based upon the recommendation of Town Planner Robert Ericson.**

**REIMBURSEMENT FOR DAMAGED MAILBOX – J. KOZIOL**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to approve reimbursement of \$54.44 for the replacement of the mailbox of John Koziol of Old Oxford Road.**

**PURCHASE OF COMPUTERS FOR TAX ASSESSOR'S OFFICE**

**MOTION by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on an aye vote to approve an amount of \$5,792.66 to CDI Computer Dealers Inc. for the purchase of five computers and additional accessories/warranties based upon the recommendations of the Finance Director and the Town Administrator after consultation with School Department Technology Director Eric Butash and the town's IT consultant James Lass.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote at 10:00 P.M. to extend the curfew to 11:00 P.M.**

### **CONTRACT WITH LEXIS NEXIS**

**It was explained that this is software used to run and verify motor vehicle plates as well as to check and verify authorized exemptions.**

**MOTION by Mrs. Charest and seconded by Mr. McGee to move forward with this contract.**

**MOTION was amended by Mrs. Charest, Mr. McGee seconded the amendment, and it was voted unanimously on an aye vote to make this a one-year contract at a cost of \$155.00 per month.**

**MOTION by Mrs. Charest, seconded by Mr. McGee, and voted unanimously on an aye vote to enter into a one-year contract with Lexis Nexis at a cost of \$155.00 per month.**

**MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to authorize the Town Administrator to sign the contract once it has been reviewed by her and the Town Solicitor.**

### **CONTRACT WITH PICTOMETRY INTERNATIONAL CORP.**

**Smithfield Tax Assessor Sue Kogut explained that this software is**

used in Smithfield by several various departments including the Tax Assessor's office, the police department and the fire department. It is software that provides oblique photography not just aerial views. Because the towns of Smithfield and North Smithfield have six common grids, it was suggested that the two towns join together in the contract.

**MOTION** by Mrs. Charest, seconded by Mr. Zwolenski, and voted 4 to 1 (Mr. Yazbak voted no) on an aye vote to approve a two-year contract with Pictometry International Corp. at a cost of \$7,399.50 annually over the two years. This represents North Smithfield's share of the

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**\$29,598 cost for a two-year contract. Funding will come from the Contractual Services account within the Assessor's Office (4152-343).**

**MOTION** by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to authorize the Town Administrator to sign the contract.

**CONTRACT WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.**

This software will allow the town to add or include tangibles on town maps. Included in this are light poles, utility poles, high power tension lines, underground sewer lines, water lines and gas lines. This software would also be an asset to the town with regards to

**easements.**

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to approve payment of \$1,520.00 to ESRI for software and \$400.00 for the maintenance agreement. Funding will be the Contractual Services account within the Tax Assessor's office (4152-327).**

#### **AWARD OF FUEL CONTRACT**

**MOTION by Mr. Yazbak, seconded by Mrs. Charest and Mr. McGee, and voted unanimously on an aye vote to award the fuel contract to Santa Buckley of Bridgeport, CT as recommended by the Finance Director and the Town Administrator. This is a one-year extension to the existing fuel bid that was in place for the current year with no change in price.**

**MOTION by Mrs. Charest, seconded by Mr. Zwolenski and Ms. Alves, and voted unanimously on an aye vote to authorize the Town Administrator to sign the contract.**

#### **RESIGNATION FROM PLANNING BOARD – S. GIBBS**

**MOTION by Mr. Zwolenski, seconded by Mr. McGee and Mrs. Charest, and voted unanimously on an aye vote to accept, with regret, the resignation of Scott Gibbs from the Planning Board effective December 31, 2011 and to have the Clerk send a letter of recognition.**

## **APPOINTMENTS TO BOARDS AND COMMISSION**

**MOTION** by Mr. Zwolenski to do a blanket reappointment of those current members who requested reappointment. There is one person who did not request reappointment for whom Mr. Zwolenski would like to get verification of her resignation.

There was discussion about some appointments being made by the Council and some being made by the Administrator with Council approval.

Mr. Yazbak also had a few recommendations he wished to put forth for nomination to some positions.

## **ASSESSOR'S BOARD OF REVIEW**

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to reappoint Richard Martin to complete the final two years of a three-year term that expires December 1, 2013 and to reappoint Jeannine Lennox to a three-year term that will expire on December 1, 2014.

## **BUDGET COMMITTEE**

**MOTION** by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to reappoint Mary Jo Vallee to a three-year term that will expire on December 1, 2014.

## **CONSERVATION COMMISSION**

**Ms. Hamilton chose to reappoint Carol Ayala, Jeffrey Delasanta, Scott Perry and Aimee Mandeville to three-year terms that will expire on December 1, 2014.**

**MOTION by Mr. Yazbak, seconded by Mrs. Charest and Mr. Zwolenski, and voted unanimously on an aye vote to approve the Town Administrator's recommendations.**

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#### **ECONOMIC DEVELOPMENT COMMISSION**

**Ms. Hamilton recommended the reappointment of Michael Dowling to the Economic Development Commission.**

**MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to approve the Administrator's appointment of Michael Dowling to the Economic Development Commission for a five-year term that will expire on December 1, 2016.**

#### **HISTORIC DISTRICT COMMISSION**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to reappoint Gwen Cunningham and Jeffrey Fontaine to three-year terms that will expire on December 1, 2014.**

## **JUVENILE HEARING BOARD**

**Ms. Hamilton reappointed Walter Pierowski to a three-year term that will expire on December 1, 2014.**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to reappoint Mary Ann Cardello to a three-year term that will expire on December 1, 2014.**

## **PERSONNEL BOARD**

**Ms. Hamilton recommended the reappointment of Renee Rapko for a three-year term that will expire on December 1, 2014.**

**There are still two vacancies. One is a two-year term that expires on December 1, 2013 and the other is a three-year term that expires on December 1, 2014.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to approve the reappointment of Renee Rapko for a three-year term that will expire on December 1, 2014 as recommended by the Town Administrator.**

## **PLANNING BOARD**

**MOTION by Mr. Zwolenski to reappoint Dean Naylor to a five-year term on the Planning Board. There was no second.**

**MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to appoint Arthur Bassett to a five-year term that will expire on December 1, 2016.**

**MOTION by Mr. Zwolenski and seconded by Mr. McGee to reappoint Dean Naylor to complete the term of Scott Gibbs.**

**MOTION by Mr. Yazbak to appoint Eugene Currie, Jr. to complete the term of Scott Gibbs. There was no second.**

**The MOTION to reappoint Dean Naylor to complete the term of Scott Gibbs passed unanimously on an aye vote. This is a five-year term that expires on December 1, 2013.**

**MOTION by Mr. Yazbak and seconded by Mrs. Charest to appoint Eugene Currie, Jr. as the 1st Alternate.**

**MOTION by Mr. Zwolenski and seconded by Ms. Alves to appoint Mali Jones as the 1st Alternate.**

**Roll call vote for the appointment of Eugene Currie, Jr. as the 1st Alternate: Ms. Alves – no; Mrs. Charest – yes; Mr. McGee – no; Mr. Zwolenski – no; and Mr. Yazbak – yes. The motion failed 2 to 3.**

**Roll call vote for the appointment of Mali Jones as the 1st Alternate: Ms. Alves – yes; Mrs. Charest – no; Mr. McGee – yes; Mr. Zwolenski –**



yes and Mr. Yazbak – no. The motion passed 3 to 2. This is a one-year term.

**MOTION** by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on an aye vote to appoint Eugene Currie, Jr. as the 2nd Alternate. This is a one-year term.

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#### **PUBLIC SAFETY COMMISSION**

**MOTION** by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to reappoint Paul Connolly to the remainder of a three-year term that will expire on December 1, 2013.

**MOTION** by Mr. Zwolenski, seconded by Mr. McGee, Mrs. Charest and Ms. Alves, and voted 4 to 1 (Mr. Yazbak voted no) on an aye vote to reappoint John Sutherland to a three-year term that will expire on December 1, 2014.

#### **REDEVELOPMENT AGENCY**

**MOTION** by Mr. Zwolenski, seconded by Mrs. Charest and Ms. Alves, and voted unanimously on an aye vote to reappoint Michael Rapko to a five-year term that will expire on December 1, 2016.

**MOTION** by Mr. Zwolenski, seconded by Ms. Alves, and voted

**unanimously on an aye vote to reappoint John Flaherty to a five-year term that will expire on December 1, 2016.**

## **SEWER COMMISSION**

**This was tabled to the December 19th meeting.**

## **ZONING BOARD**

**MOTION by Mr. Zwolenski and seconded by Ms. Alves to reappoint William Juhr to a five-year term that will expire on December 1, 2016.**

**MOTION by Mr. Yazbak and seconded by Mrs. Charest to reappoint Scott Martin for a five-year term that will expire on December 1, 2016.**

**Roll call vote on Mr. Juhr: Ms. Alves – yes; Mrs. Charest – no; Mr. McGee – yes; Mr. Zwolenski – yes; and Mr. Yazbak – no. The motion passed 3 to 2.**

**MOTION by Mr. Yazbak and seconded by Mrs. Charest to reappoint Scott Martin to the Zoning Board as the 1st Alternate.**

**MOTION by Mr. Zwolenski to reappoint Mario DiNunzio as the 1st Alternate.**

**The motion to reappoint Scott Martin to the Zoning Board as the 1st Alternate passed unanimously on an aye vote. This is a one-year term that that will expire on December 1, 2012.**

**MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to reappoint Mario DiNunzio to the Zoning Board as the 2nd Alternate. This is a one-year term that will expire on December 1, 2012.**

#### **NARRAGANSETT IMPROVEMENT LAWSUITS**

**MOTION by Mr. Yazbak that the Town of North Smithfield retain Attorney Jeffrey Gladstone of the firm Partridge, Snow & Hahn to represent the town against the three Narragansett Improvement lawsuits. There was no second.**

**MOTION by Mr. Zwolenski to continue with the retention of Attorney Patrick Dougherty to represent the Town of North Smithfield. There was no second.**

#### **INTERMUNICIPAL WASTEWATER AGREEMENT WITH THE CITY OF WOONSOCKET**

**No action was taken.**

#### **CLAIM OF JEANNINE ORLANDO**

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to deny this claim and instruct the Town Solicitor to send a letter to Attorney Joseph Carroll.**

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted**

**unanimously on an aye vote to adjourn at 10:42 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**